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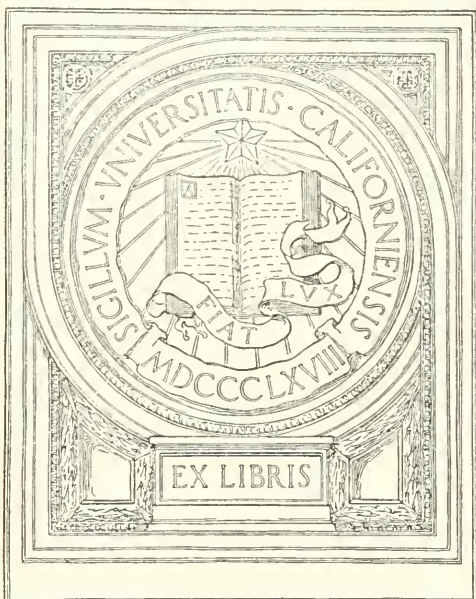
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Commission Government
The Des Moines Plan

By

Benjamin F. Shambaugh

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COMMISSION GOVERNMENT

THE DES MOINES PLAN

BY

BENJAMIN F. SHAMBAUGH

THE STATE HISTORICAL SOCIETY OF IOWA
IOWA CITY IOWA JANUARY 1912

COMMISSION GOVERNMENT IN IOWA



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THE DES MOINES PLAN

BY

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PREFACE

Upon the request of Mr. Clyde L. King a paper bearing the title of *Commission Government in Iowa: The Des Moines Plan* was prepared by the author for publication in the *Annals of the American Academy of Political and Social Science*. Having appeared in the November, 1911, number of the *Annals*, the paper is now with permission reprinted by The State Historical Society of Iowa. Notes and references as well as a comprehensive index follow the text.

BENJ. F. SHAMBAUGH

OFFICE OF THE SUPERINTENDENT AND EDITOR
THE STATE HISTORICAL SOCIETY OF IOWA
IOWA CITY IOWA JANUARY 1912

COMMISSION GOVERNMENT IN IOWA

THE DES MOINES PLAN

Commission government in Iowa is a municipal experiment in an interesting field.¹ Indeed, not a little surprise has been expressed that this state, which is still generally characterized as an agricultural and stock-raising commonwealth, should have given birth to a plan of municipal reform that within a brief period of three years promises to play an important rôle in the evolution of city government in the United States. The social and political conditions of Iowa have for the most part been sane and normal; and the people, although progressive, are as a whole neither extreme in their views nor radical in their reforms.

In 1910 the population of the state numbered 2,224,771 persons, of whom 1,117,490 lived in the incorporated towns and cities, which for purposes of state legislation are classified as (a) cities of the first class, having a population of 15,000 or over, (b) cities of the second class, having a population between 2,000 and 15,000, and (c) towns, having a population under 2,000. There are also a few special charter cities — so-called from the fact that they operate under special charters granted by the legislature prior to the adoption of the Constitution of 1857. In 1910 there were, in addition to the 7 cities which had adopted commis-

sion government, 4 cities of the first class, 88 cities of the second class, 725 towns, and 5 special charter cities. Moreover, there are in Iowa no really large cities — the largest being Des Moines with a population which does not exceed 90,000.²

Nor has the government of the incorporated municipalities of Iowa been characterized by any striking or unusual features. The organizations of the several classes of cities are and always have been very similar, consisting of a council, a mayor, a clerk, a treasurer, an assessor, a marshal, and other officers necessitated by the size and local conditions of the municipality. In the towns the council, which is a subordinate law-making body, consists of five members, elected at large; while in the cities of the first and second class the council is made up of one alderman from each ward and two additional aldermen elected at large. The mayor, chosen for a term of two years, appoints such officials as the street commissioner, the city physician, the marshal, and the policemen. In a general way he superintends the administration of city affairs and acts as a conservator of the peace. He presides at the meetings of the council and participates in its deliberations; but he has no vote except in case of a tie. The mayor may veto acts of the council; but by a two-thirds vote the council may pass such acts over the executive disapproval. In short the government of Iowa cities — excepting of course those now operating under the commission plan — is modeled largely upon the so-called Federal Plan, wherein there is a distinct

recognition of the principle of the separation of powers with its usual system of checks and balances.³

Again it may be asserted that there has been nothing unusual in the history of municipal administration in Iowa. The results here have been typical — no better and no worse than in other American jurisdictions. To be sure there is nothing in Iowa to parallel the sensational stories of misgovernment furnished by such cities as New York, Philadelphia, St. Louis, and San Francisco. At the same time the municipalities of Iowa from the smallest incorporated towns to the largest cities of the first class have their own record of inefficiency and petty grafting. It is, moreover, an erroneous notion commonly entertained that in municipal affairs maladministration and crookedness are largely if not wholly confined to the larger cities. Whereas, if the evils of partisanship, incompetency, and petty grafting in the towns and cities of Iowa could be massed, the facts and figures would be no less appalling. Indeed, the enormous waste resulting from inefficiency in administration would alone furnish surprising totals.

To be more specific, it may be said that the cities of Iowa large and small have suffered not a little from machine politics and from nearly every form of municipal corruption, but most of all from inefficient and incompetent administration. In the larger cities like Des Moines the situation has seemed to be more serious. Here the ward system of representation in the council has too often proved a hopeless failure, tending as it

does to foster local selfishness, log-rolling, and indifference to the more general interests of the community. Here, too, bribery of voters has at times been practiced, and the stealing of ballot boxes is not unknown. Members of the council have in not a few instances been in "profitable contract relations with the public service corporations". And the city hall was generally "a circumlocution office, where it was usually impossible to find any official who could do more with any petition or complaint than take it under advisement and refer it to somebody else who was equally unwilling to give it attention."⁴

It was not, however, the result of any exposure of municipal corruption nor yet the certain knowledge of enormous waste due to incompetent administration that led the Thirty-second General Assembly in 1907 to make provision for commission government in certain Iowa cities. The action taken by the legislature was clearly the outcome of an agitation begun by Mr. James G. Berryhill and Mr. Harvey Ingham and deliberately carried forward by them and other citizens of Des Moines.⁵

Mr. Berryhill had become favorably impressed with the plan and workings of commission government in Texas while upon business in the city of Galveston; and through him Mr. Ingham, editor of *The Register and Leader*, was interested in the Galveston charter. Mr. Berryhill was invited to make a public report on the new scheme of municipal administration at a meeting called by the Commercial Club of Des Moines and

held on November 16, 1905. The interest and enthusiasm aroused at this meeting led to the definite organization of a propaganda for the adoption of a similar plan of government by Des Moines. "Other meetings were held and a standing committee of two hundred citizens named. A sub-committee was appointed to draft a new form of government for the city, with the understanding that the Galveston charter was to be broadly followed as a model."⁶

In due time and after no little discussion a commission charter was framed in the form of a bill and introduced in the General Assembly which was then (1906) in session.⁷ At that time there was among the citizens of Des Moines a sharp division of opinion as to the value of the proposed plan; while among the legislators the scheme was regarded as decidedly visionary and impracticable. The politicians, very naturally, were opposed to legislation which threatened the existence of the machine. As a consequence the proposed bill did not become a law: it died in committee. But the reform movement did not die with the bill. Indeed, it now became a part of the "boosting" program of the Greater Des Moines Committee. Especially did Mr. Ingham further the agitation through the columns of matter which appeared on his editorial page in *The Register and Leader*. Much effective work was also done in this campaign of education by Mr. Lafayette Young, editor of *The Des Moines Capital*, and Mr. Wm. G. Hale, editor of *The Des Moines News*.⁸

The gospel of commission government now spread

rapidly. A large number of citizens became deeply interested. Some were enthusiastically for the new plan; while others were just as vigorous in their opposition. The scheme was discussed from every possible viewpoint. It was compared with other plans for municipal reformation. For a while the "Indianapolis Plan" was a formidable rival for public favor. As a means of ascertaining public sentiment a newspaper ballot was taken by both *The Register and Leader* and *The Des Moines Capital*.⁹ On January 31, 1907, a joint discussion was held in public at which three hundred citizens were named by the Commercial Club to act as a jury. The Galveston Plan won the decision by a considerable majority. Then followed the appointment of a charter committee consisting of Messrs. James G. Berryhill, William H. Baily, I. M. Earle, John M. Read, and Silas B. Allen.¹⁰ By this committee the "Des Moines Plan" of commission government was framed and submitted to the Thirty-second General Assembly by which it was written into the statute laws of the state under the title of "An Act to provide for the government of certain cities, and the adoption thereof by special election", approved March 29, 1907.¹¹

Thus after nearly two years of active agitation and intensive discussion commission government was established in Iowa. The successful outcome of the agitation was due partly to the reform spirit of the times, partly to the cumulative efforts of a group of Des Moines citizens who had for years worked courageously for better city government, and partly to the

enthusiasm of men like Mr. Berryhill and Mr. Ingham who espoused the cause of commission government as a business proposition and a sure means of municipal salvation.

The act of the Thirty-second General Assembly establishing commission government, or what has come to be very generally known as the Des Moines Plan, went into effect on April 1, 1907, and not long thereafter was adopted by the cities of Des Moines and Cedar Rapids. Under the provisions of the act of 1907 only cities of the first class or with special charters, having a population of 25,000 or over, could take advantage of the plan; but two years later (1909) the original act was so modified as to include any city having a population of 7,000 or over.¹² Other modifications were made both by the Thirty-third General Assembly in 1909 and by the Thirty-fourth General Assembly in 1911;¹³ but the Des Moines Plan in all of its essential and characteristic features stands to-day as originally outlined by the charter committee of Des Moines citizens.

Although suggested by and modeled upon the Galveston Plan, the Des Moines Plan is something more than a revised and improved edition of the Galveston charter: it is a distinct species of commission government. Its framers, while endeavoring to "enable the people of Des Moines to free themselves permanently from the burdens of bad government", sought to produce a charter in which democracy and efficiency would be combined "in the greatest practicable degree".¹⁴

And so upon the Galveston charter they engrafted the newer institutional forms of democracy such as the non-partisan primary, the initiative, the protest, the referendum, the recall, and the merit system. It can not, of course, be claimed that any of the cardinal features of the Des Moines Plan are new inventions in the history of government. On the contrary, its principles are but appropriations and adaptations from the charters and experiences of other cities and jurisdictions. Nevertheless the combination of principles and institutions and their adaptation to the exigencies of modern urban conditions sufficiently warrant the claim that the plan as a whole is a new and distinct species of city government in the same sense in which it may be claimed that the Constitution of the United States — the framers of which drew most heavily upon the first state constitutions and the political experiences of the Colonies — really gave to the world a new form of national government.

Commission government in Iowa is not forced upon any class of towns or cities: on the contrary, its establishment is optional with the people. To bring about its adoption and organization in any city of the state having the requisite population of at least 7,000 it is only necessary for a certain number of electors¹⁵ to petition for the submission of the question to a vote of the people. A special election is held upon the proclamation of the mayor. Should the plan be rejected at this election, the question to adopt may not again be submitted within a period of two years thereafter. If,

however, the plan is approved the people proceed at the next regular city election (or at a special election if the regular election does not occur within a year) to the selection of a mayor and councilmen. Organization of the new government is effected on the first Monday after the election of officers when the mayor and councilmen meet, make the required assignment of departments, and elect the principal city officers.¹⁶

All laws of the state governing cities of the first and second class, including the code provisions relative to special charter cities, and not inconsistent with the provisions of the commission act, continue to apply to and govern the new organization; and until altered or repealed by the new council all by-laws, ordinances and resolutions in force under the former city organization remain in full force and effect under the commission organization. The territorial limits of the city remain the same as under the old organization; and the rights and property vested in the city under its former organization remain undisturbed by the change. Moreover, any city which shall have operated for more than six years under the commission plan may, by voting to do so, abandon such organization and accept the government provided by the general state law for cities of its class.¹⁷

Commission government under the Des Moines Plan is really a very simple affair. It is not only simple but direct. It organizes the city as a unit, making it possible for the people at all times to act "together along simple and direct lines". The government consists pri-

marily of a council, which is composed of a mayor and four councilmen in cities having a population of 25,000 or over, or of a mayor and two councilmen in cities having a population of 7,000 and less than 25,000. The members of this council are nominated and elected at large, hold office for the term of two years, and receive a stipulated salary for their services.¹⁸ It is upon the members of this governing council (which constitutes the commission) that the law confers "all executive, legislative and judicial powers and duties" possessed by the government and officers of cities of the first and second class and those under special charter.¹⁹

All other officers and assistants, including a city clerk, a solicitor, an assessor, a treasurer, an auditor, a civil engineer, a city physician, a marshal, a market master, a street commissioner, three library trustees, "and such other officers and assistants as shall be provided for by ordinance and necessary to the proper and efficient conduct of the affairs of the city" are elected by a majority vote of the council. And "any officer or assistant elected or appointed by the council may be removed from office at any time by vote of a majority of the members of the council."²⁰ In cities of the first class, not having a superior court, the council is directed to appoint a police judge; while in cities of the second class, not having a superior court, the mayor is directed to hold police court as provided by law. The council, moreover, is empowered to create, fill, and discontinue offices and employments according to their judgment of the needs of the city.

Thus in the Des Moines Plan authority and responsibility are drawn together, unified, and consolidated in the hands of a very few officers — the members of the council. The old principle of the separation of powers is ignored, and within the organization itself there is practically no provision for checks and balances. This does not mean, however, that the Des Moines Plan is a scheme of absolute government; for in the initiative, the protest, the referendum, and the recall the electorate possesses adequate checks upon the government. Indeed, the thorough going democracy of the Des Moines Plan is clearly seen in the institutional forms of popular government which determine the relation between the members of the council and the electorate. It is safe to say that commission government is the most democratic of all forms of municipal organization thus far devised.

The mayor and the councilmen, being the only elective officers under the Des Moines Plan, the benefits and advantages of short ballot government are secured to the commission cities of Iowa. Indeed, commission government is short ballot government.²¹ Furthermore the few elective officers are nominated and chosen at large, by the process of a non-partisan double election.²² The first election, which is held on the second Monday preceding the general municipal election, is a non-partisan primary at which any elector of the city may become a candidate for mayor or councilman and request that his name be placed upon the official primary ballot, provided he files at the same

time a petition signed by at least twenty-five electors requesting his candidacy. On the official primary ballot all the names of the qualified candidates are printed in alphabetical order — the names of the candidates for mayor appearing in a list at the top of the ballot, followed below by a list of the candidates for councilman.

At the first or primary election the persons qualified to vote at the general municipal election may vote for only one of the candidates for mayor and for not more than four (or two as the case may be) of the candidates for councilman by placing a cross in the square which appears in front of the names of his choice. The method of conducting this primary election is in all respects the same as prescribed for the general municipal elections.²³

At the next general municipal election following the first or primary election the two candidates receiving the highest number of votes for mayor at the first election are the only candidates for mayor whose names may appear on the official ballot; and the eight (or four as the case may be) candidates receiving the highest number of votes for councilman at the first election are the only candidates for councilman whose names may appear on the official ballot at the final election. At this second election the candidate receiving the highest number of votes for mayor is declared elected, and the four (or two as the case may be) candidates for councilman receiving the highest number of votes for councilman are declared to be the duly elected members of the

council. Should any vacancy occur in the council the remaining members are empowered to fill the position by the appointment of a person for the balance of the unexpired term.

For the prevention of corrupt practices at elections held under the commission plan, the statute provides that "any person who shall agree to perform any services in the interest of any candidate for any office . . . in consideration of any money or other valuable thing . . . shall be punished by a fine not exceeding three hundred dollars (\$300), or be imprisoned in the county jail not exceeding thirty (30) days." Again "any person offering to give a bribe, either in money or other consideration, to any elector for the purpose of influencing his vote at any election provided in this act, or any elector entitled to vote at any such election receiving and accepting such bribe or other consideration; any person making false answer to any of the provisions of this act relative to his qualifications to vote at said election; any person wilfully voting or offering to vote at such election who has not been a resident of this state for six months next preceding said election, or who is not twenty-one years of age, or is not a citizen of the United States; or knowing himself not to be a qualified elector of such precinct where he offers to vote; any person knowingly procuring, aiding or abetting any violation hereof shall be deemed guilty of a misdemeanor and upon conviction shall be fined a sum not less than one hundred dollars (\$100), nor more than five hundred dollars (\$500), and be im-

prisoned in the county jail not less than ten (10) or more than ninety (90) days.”

One of the aims of the Des Moines Plan is to rid the government of machine politics and boss rule. And so both the first and second election are placed upon a strictly non-partisan basis. “No party designation or mark whatsoever” is permitted on the official ballots. For an officer or employee to attempt to influence the political views of other officers or employees or induce them to support a particular person or candidate for office or to make any kind of contribution for election purposes constitutes a misdemeanor punishable by fine or imprisonment. Moreover, members of the fire and police departments are specifically prohibited from contributing “any money or anything of value to any candidate for nomination or election to any office or to any campaign or political committee.”²⁴

To secure the responsibility of the members of the council directly to the people, the Des Moines Plan makes provision for their possible removal from office by the process known as the Recall. Thus, should the conduct of a member of the council become intolerable a petition signed by a given number of electors²⁵ demanding an election of a successor to the person sought to be removed and setting forth the grounds for which the removal is sought is filed with the city clerk, who carefully examines its sufficiency and transmits it to the council. The council thereupon makes the necessary provisions for the election, which is conducted in all respects as are other city elections. The person

“sought to be removed may be a candidate to succeed himself, and unless he requests otherwise in writing, the clerk shall place his name on the official ballot, without nomination.” Other candidates for the position may have their names placed upon the official ballot without the intervention of a primary election by filing with the clerk a statement of candidacy accompanied by a petition signed by a specified number²⁶ of electors. The candidate who receives the highest number of votes at this election is qualified to hold the office during the unexpired term of his predecessor. If, however, the person who receives the highest vote does not accept the office the position is deemed vacant.²⁷ Moreover, this method of removal is expressly declared to be “cumulative and additional to the methods heretofore provided by law.”

For the better and more business-like conduct of the affairs of cities operating under the Des Moines Plan, the executive and administrative powers and duties are distributed by the council among five departments which are known as (1) the department of public affairs, (2) the department of accounts and finances, (3) the department of public safety, (4) the department of streets and public improvements, and (5) the department of parks and public property. The powers and duties belonging to each department are determined by the council, which also prescribes and defines the powers and duties to be exercised by all other city officers, assistants, and employees, and assigns each to one or more of the departments.²⁸

It is specifically provided by statute that the mayor "shall be superintendent of the department of public affairs, and the council shall at the first regular meeting after election of its members designate by majority vote one councilman to be superintendent of the department of accounts and finances; one to be superintendent of the department of public safety; one to be superintendent of the department of streets and public improvements; and one to be superintendent of the department of parks and public property." In cities having a population of less than 25,000 each of the two councilmen is assigned two of the departments named. Moreover, the organization of the council is elastic since the assignment of departments may be changed by the council "whenever it appears that the public service would be benefited thereby."²⁹ Thus through the division and specific designation of powers and duties among the members of the council, the fixing of individual responsibility for the conduct of the public business becomes possible under the Des Moines Plan.

The council is required by statute to meet on the first Monday after their election and at least once each month thereafter. As a matter of fact it meets from one to three times each week, and the members of the council are at their desks in the city hall every day. Its sessions are not necessarily open to the public, except those "at which any person not a city officer is admitted."³⁰ The mayor, who is designated as the president of the council, presides at all of its meetings; while the superintendent of the department of accounts

and finances, who is named as the vice-president of the council, performs all of the duties of mayor in case of a vacancy or in the absence or inability of that officer. Each member of the council has the right to vote on any and all questions coming before the council, no matter whether it concerns his department or the department of another member. The number constituting a quorum depends upon the size of the council: in cities having a mayor and four councilmen it is three; in cities having a mayor and two councilmen it is two. The number of affirmative votes necessary to the adoption of any motion, resolution or ordinance, or the passage of any measure whatsoever is three in the larger council and two in the smaller. Every motion, resolution, or ordinance is reduced to writing before being voted upon, and upon every vote the yeas and nays are called and recorded.³¹

In the Des Moines Plan the members of the council are equal in dignity and authority — excepting the mayor, whose position is slightly more conspicuous if not much more important. He enjoys the title of mayor and is elected as such by the people. He is president of the council, presides over its deliberations, signs all of its resolutions and ordinances, but has no veto power. Besides holding the portfolio of the department of public affairs, the mayor is given a supervisory power over all other departments; and he may report to the council for its action matters pertaining to any department which in his judgment require attention. Finally, he receives a salary somewhat larger than that

allowed the other members of the council. Filled by a man of energy, ability, and aggressive personality, the position of mayor could easily become one of dominating influence.

To eliminate certain improper influences and the temptation to act otherwise than in the interest of the public, officers and employees are prohibited from being interested directly or indirectly in any contract or job for work or materials or services to be furnished or performed for the city. Nor may officers and employees have an interest direct or indirect in any contract or job for work or materials or services to be furnished or performed for "any person, firm or corporation operating interurban railway, street railway, gas works, water works, electric light or power plant, heating plant, telegraph line, telephone exchange or other public utility within the territorial limits of the said city." Finally they are prevented from accepting special favors, such as franks and passes, from any of the public service corporations operating within the city.³²

The voting of appropriations, the ordering of improvements, the making of contracts, and the granting of franchises are checked and safeguarded by the specific publicity requirement that "every ordinance or resolution appropriating money or ordering any street improvement or sewer, or making or authorizing the making of any contract, or granting any franchise or right to occupy or use the streets, highways, bridges, or public places in the city for any purpose, shall be

complete in the form in which it is finally passed, and remain on file with the city clerk for public inspection at least one week before the final passage or adoption thereof.”³³

The Des Moines Plan does not contemplate municipal ownership and operation of public utilities. But that franchises may rest upon popular sanction it is provided that “no franchise or right to occupy or use the streets, highways, bridges or public places in any such city shall be granted, renewed or extended, except by ordinance, and every franchise or grant for inter-urban or street railways, gas or water-works, electric light or power plants, heating plants, telegraph or telephone systems, or other public service utilities within said city, must be authorized or approved by a majority of the electors voting thereon at a general or special election”.³⁴

Moreover, under the Des Moines Plan the people not only have a veto, through compulsory referendum, upon the granting of franchises, but through the institution of the protest they may check the enactment by the council of any ordinance whatsoever. Thus, no ordinance passed by the council (except when otherwise required by general law or in cases of urgency)³⁵ “shall go into effect before ten days from the time of its final passage;” and if during those ten days a petition signed by the requisite number of electors, protesting against the passage of the ordinance, is presented to the council “the same shall thereupon be suspended from going into operation, and it shall be

the duty of the council to reconsider such ordinance; and if the same is not entirely repealed, the council shall submit the ordinance . . . to the vote of the electors of the city, either at the general election or at a special municipal election to be called for that purpose; and such ordinance shall not go into effect or become operative unless a majority of the qualified electors voting on the same shall vote in favor thereof.”³⁶

Effective as are the protest and the referendum as popular checks upon undesirable, not to say improper, legislation, they are after all only the negative instruments of democracy: they can prevent unwise or unpopular measures, but they cannot absolutely compel the adoption of desired acts. And so, that the wishes of the people for the adoption of specific measures may not be thwarted by a do-nothing government, the Des Moines Plan includes the institution of the popular initiative. In the commission cities of Iowa any proposed ordinance may at any time be submitted to the council by petition from the electors,³⁷ who may at the same time request that such ordinance be submitted to a vote of the people if it is not passed by the council. Upon receiving such petition and request the council may, within twenty days, pass the desired ordinance without alteration, or may submit it without alteration to a vote of the people. If the ordinance is approved by the electors it becomes a valid and binding ordinance of the city. Furthermore, “any ordinance proposed by petition, or which shall be adopted by a vote

of the people, cannot be repealed or amended except by a vote of the people''; but the council may submit a proposition for the amendment or repeal of any such ordinance at any succeeding general city election.³⁸

Publicity is fully guaranteed under the Des Moines Plan since the council is required to print monthly in pamphlet form a "detailed itemized statement of all receipts and expenses of the city and a summary of its proceedings during the preceding months", and at the end of each year to have all the books and accounts of the city examined by competent accountants and to publish the results of such examinations.³⁹ Moreover, every motion, resolution, or ordinance must be reduced to writing and the yea and nay vote thereon recorded; every ordinance or resolution appropriating money, or ordering street or sewer improvements, or making or authorizing the making of a contract, or granting any franchise must remain on file with the city clerk for public inspection at least one week before its final passage; meetings of the council to which anyone not a city officer is admitted are open to the public; and publication in detail of campaign contributions and expenses is required of the elective officers.

By the framers of the Des Moines Plan a thorough going merit system was without question regarded as essential to good government and altogether necessary to non-partisan administration. And so, provision was made for a civil service commission consisting of three persons appointed by the council for a term of six years, and removable for cause at any time by a four-

fifths vote of the council. In cities having a population of 25,000 or over the appointment of such a civil service commission is compulsory, while in cities having a population of 7,000 and less than 25,000 its creation is left to the discretion of the council. When, however, no commissioners are appointed in any commission governed city, the council in that city acts as the civil service commission.⁴⁰

With the exception of the elective positions and those specifically designated — such as city clerk, solicitor, assessor, treasurer, auditor, civil engineer, city physician, marshal, market master, street commissioner, library trustees, “commissioners of any kind (laborers whose occupation requires no special skill or fitness), election officials, and mayor’s secretary and assistant solicitor”— all appointive officers and employees are elected by the council from lists of persons selected by civil service examinations conducted semi-annually by the commission and certified by them to the council.⁴¹ Persons holding civil service positions may be removed by a majority vote of the civil service commissioners for misconduct or failure to perform properly their duties under rules and regulations prescribed by the council.⁴² The commission reports annually to the council, and submits special reports whenever requested.

Since the establishment of commission government in Iowa in 1907 three cities of the first class, two of the second class, and two with special charters have adopted the plan. Under the provisions of the act of 1907

only seven cities had the requisite population of 25,000 or over; while under the amendment of 1909 the new plan was opened to nineteen cities. Des Moines, for the relief of which as a matter of fact the commission scheme was originally written into the statutes of the state, was the first to adopt the plan at a special election held on June 20, 1907 — the vote being 6,376 for and 2,087 against. The second adoption was by Cedar Rapids on December 2, 1907, where the plan carried by the small margin of thirty-three votes on a light poll.⁴³ Since 1907 five additional adoptions have been accomplished as follows: Keokuk on July 1, 1909; Burlington on November 29, 1909; Sioux City on February 16, 1910; Marshalltown on July 15, 1910; and Fort Dodge on August 15, 1910. It is of interest to note that in 1908 Sioux City rejected the plan by a majority of 328 votes, but recorded a majority of 753 for adoption in 1910. Davenport rejected the plan by a majority of 398 in January, 1908.⁴⁴ The exact dates upon which commission government went into operation in the seven cities which have adopted the plan are: Des Moines and Cedar Rapids, April 6, 1908; Keokuk, Burlington, and Sioux City, April 4, 1910; Marshalltown and Fort Dodge, April 3, 1911.

The Des Moines Plan has, moreover, stood the test of judicial construction in both the District Court and the Supreme Court. Its constitutional status was ably discussed and the legality of its provisions first fully upheld by James A. Howe, Judge of the District Court for Polk County, in an opinion⁴⁵ rendered on Novem-

ber 23, 1907. The case was then appealed to the Supreme Court where it was finally determined at the January term in 1908 and reported as "S. A. Eckerson, Appellant *vs.* City of Des Moines *et al.*, Appellees; A. M. Houston *et al.*, Interveners, Appellants."⁴⁶ The decision, which was written by Justice Charles A. Bishop, is comprehensive and on every count affirms the ruling of the lower court. The objections to the plan, both in the lower court and in the Supreme Court, were for the most part based upon constitutional grounds.

Briefly, it was contended that the plan violated the provision of the Constitution of the United States which guarantees to the states a republican form of government; that it contravened the State Constitution, which provides that the powers of the government shall be divided into three departments (legislative, executive, and judicial) and that persons charged with the exercise of powers properly belonging to one department shall not perform functions appertaining to either of the others; that in establishing commission government the General Assembly violated the constitutional provision against local and special laws for the incorporation of cities and towns; that the classification of cities provided in the act is unwarranted because it is arbitrary and because it is not shown that conditions call for any such classification; that the state law is not uniform in its operation; that to provide for adoption by a vote of the people is an unwarranted delegation of legislative power; that the recall would deprive per-

sons of their constitutional right to certain offices; that the initiative and referendum are repugnant to the State Constitution, which vests all legislative authority in the General Assembly; and that the provision limiting the names which may appear on ballots deprives the voter of his constitutional right to vote for anyone he chooses. Without going into the arguments as presented by Justice Bishop, it is perhaps sufficient in this connection to say that the objections cited were all overruled and the validity of the commission plan was sustained on every count by the Supreme Court.

The time during which the Des Moines Plan has been in operation is too brief and the number of municipalities carrying on the experiment too small to warrant generalization on the merits of the scheme from experience. Indeed, it will take many times three years and many more than seven cities to afford a sufficient basis for empirical conclusions as to the permanent value of commission government in Iowa. At the same time it must be admitted that present indications seem to point in the direction of permanent success. In the first place it may be confidently asserted that in the cities operating under commission government a very large majority of the people are satisfied with the results — at least they could not now be induced to go back to the old Federal Plan of mayor and council. Where hopes and anticipations were too high, where the people expected too much of the new organization, there are naturally some signs of disappointment.

Generally speaking, in the commission governed

cities of Iowa the people have been aroused to a new sense of civic responsibility. They are more actively concerned in the problems of public welfare, and they seem possessed of a wholesome spirit of hopefulness. Public opinion has been unified and makes itself felt along direct lines. Will this state of mind continue for any length of time? Or, is it born simply of the enthusiasm for change? The most conspicuous gain is seen in the fact that everywhere the old political machines have been smashed, bosses dethroned, and ward politics wiped out. Thus far there have been no conspicuous evidences of graft; and appointments have for the most part been made upon merit instead of for political or personal considerations. Moreover, the relations between the city and the franchise-holding corporations have been altogether freer and have been maintained with less friction than under the old system. Public affairs have been put upon a business basis, and up-to-date business methods are everywhere employed. Bookkeeping and accounting have been reduced to an intelligible system. Streets and alleys are better improved and cleaned. The complaints, requests, and petitions of the citizens receive immediate attention. Promptness has taken the place of hopeless procrastination. Policies of the government are unified, and the administration generally is more economical and more efficient. Laws, especially those preventing or regulating vice, are better and more uniformly enforced.

Perhaps the greatest disappointment in the workings of the Des Moines Plan in Iowa is in the selection of

the members of the council, for it is a fact that the elections have not always resulted in the selection of really capable and efficient men. To be sure the commission councils have thus far seemed to average higher and better all around than the councils under the old organizations; but the new plan by placing greater responsibility upon the elective officers requires a correspondingly higher grade of competency. To the observer it would appear that neither the electorate nor the council are sufficiently impressed with the great necessity of efficiency in the selection of men for public positions. Nor has the best talent thus far been attracted to the elective positions. This is not surprising in view of the small salaries allowed and the absence of compelling ideals of devotion to the public service. From the standpoint of the salaries paid it can not be complained that the commission cities do not receive a *quid pro quo*.

On the whole the Des Moines Plan is an improvement and its widespread adoption will, it is believed, further the interests of good city government in Iowa. Much will depend upon the intelligence, the alertness, and the ideals of the electorate.

“But, lastly, when all is said, there is hardly one frame of government in the world so ill designed by its first founders, that, in good hands, would not do well enough; and story tells us, the best, in ill ones, can do nothing that is great or good. . . . Governments, like clocks, go from the motion men give them; and as governments are made and moved by men, so by

them they are ruined too. Wherefore governments rather depend upon men, than men upon governments. Let men be good, and the government cannot be bad; if it be ill, they will cure it. But, if men be bad, let the government be never so good, they will endeavor to warp and spoil it to their turn.

“I know some say, let us have good laws, and no matter for the men that execute them: but let them consider, that though good laws do well, good men do better; for good laws may want good men, and be abolished or evaded by ill men; but good men will never want good laws, nor suffer ill ones. It is true, good laws have some awe upon ill ministers, but that is where they have not power to escape or abolish them, and the people are generally wise and good; but a loose and depraved people (which is the question) love laws and an administration like themselves. That, therefore, which makes a good constitution, must keep it, *viz.*, men of wisdom and virtue.”⁴⁷

NOTES AND REFERENCES

¹ The term "Commission Government" was at first somewhat misleading in that the word "commission" has usually implied an appointive body.—*Cf.* Beard's *Digest of Short Ballot Charters*, p. 10201.

² For lists of the towns and cities of Iowa and their population statistics see *The Iowa Official Register* for 1911-1912, pp. 633-653.

³ *Cf.* Horack's *The Government of Iowa*, pp. 125-130.

⁴ Hamilton's *The Dethronement of the City Boss*, pp. 59, 92, 93. For an account of the meeting of November 16th, see *The Register and Leader*, Fifty-sixth Year, No. 139, November 18, 1905.

⁵ Mr. Freeman W. Conway and Mr. Charles W. Johnson are credited with "definite utterances" in approval of commission government prior to its advocacy by Berryhill and Ingham. Indeed, as early as 1903 the Committee on Law Reform of the Iowa State Bar Association submitted the following recommendation at the Des Moines meeting, which was held on July 16th and 17th:—

"That the municipal government of cities of Iowa should be vested in a council of three aldermen, whose term of office should be three years, after the first council the members of which should serve respectively one, two and three years, to be determined by lot; thereafter one alderman to be elected annually; such aldermen in all cases to be elected by a vote of the whole city, and vacancies to be filled by special elections; such councils to be vested with all the present powers of city councils, and to elect one of their members as mayor to exercise all

the duties of mayor, as defined by law; such aldermen to be paid from two thousand to five thousand dollars per year depending upon the class of the city, with additional compensation to the mayor; all to be fixed by law; the said aldermen and mayor to be required to devote their entire time to the discharge of their duties."—*Proceedings of the Ninth Annual Meeting of the Iowa State Bar Association*, pp. 60, 61.

At the next meeting of the Iowa State Bar Association this recommendation was ably supported by Col. Charles A. Clark of Cedar Rapids, in a paper covering five pages of the printed *Proceedings*. At the conclusion of the reading of Col. Clark's paper the recommendation of the committee was adopted by the Association.—*Proceedings of the Tenth Annual Meeting of the Iowa State Bar Association*, pp. 59, 129-134.

⁶ Hamilton's *The Dethronement of the City Boss*, p. 105.

⁷ This bill, introduced in the Senate as File No. 101 and in the House as File No. 127, was entitled "A Bill for An Act to provide for the Government of Certain Cities. (Amending Title V of the Code.)"

⁸ Hamilton's *The Dethronement of the City Boss*, p. 107.

⁹ The replies to the letter of inquiry sent out by *The Register and Leader* were published in full. A summary of the views expressed shows: 117 for a change in the city charter; 3 against a change; 62 for the Galveston Plan; 26 for the Indianapolis Plan; 13 had no choice; 16 for the elimination of partisanship; 24 for the proposed Berryhill-Baily discussion; and 2 opposed to such a discussion.—*The Register and Leader*, Vol. LVII, No. 195, January 13, 1907.

The *Capital* ballot stood as follows: 1,094 for a change; 23 against a change; 606 for the Galveston Plan; and 412 for the Indianapolis Plan.—Hamilton's *The Dethronement of the City Boss*, p. 109.

¹⁰ *The Des Moines Capital*, Vol. XXIII, No. 310, February

1, 1907; *The Register and Leader*, Vol. LVII, No. 215, February 2, 1907.

¹¹ *Laws of Iowa*, 1907, p. 38. Should the population of any city operating under commission government show a decrease by a subsequent census no such reduction "shall have any effect upon the organization, rights, powers, duties or obligations of such city or any of its officers, but the same shall continue and remain as though no such reduction or apparent reduction of population was made to appear."—*Laws of Iowa*, 1911, p. 40.

¹² *Laws of Iowa*, 1909, p. 53.

¹³ *Laws of Iowa*, 1909, pp. 53-63; *Laws of Iowa*, 1911, pp. 37-40.

¹⁴ Hamilton's *The Dethronement of the City Boss*, pp. 64, 69.

¹⁵ The number must equal twenty-five per cent of the votes cast for all candidates for mayor at the last preceding city election. If the city is located in two or more townships the petition must be signed by ten per cent of the qualified electors of the city resident in each township.—*Laws of Iowa*, 1909, pp. 53, 54; *Laws of Iowa*, 1911, p. 37.

¹⁶ The council may elect the officers named in the statute at this first meeting "or as soon as practicable thereafter".—*Laws of Iowa*, 1909, p. 57.

¹⁷ *Laws of Iowa*, 1907, p. 48; *Laws of Iowa*, 1909, p. 58.

¹⁸ In cities having a population of 7,000 and less than 10,000 the salary of mayor is \$600, of councilman \$450; in cities having a population of 10,000 and less than 15,000 the salary of mayor is \$1,200, of councilman \$900; in cities having a population of 15,000 and less than 25,000 the salary of mayor is \$1,500, of councilman \$1,200; in cities having a population of 25,000 and less than 40,000 the salary of mayor is \$2,500, of councilman \$1,800; in cities having a population of 40,000 and

less than 60,000 the salary of the mayor is \$3,000, of councilman \$2,500; and in cities having a population of 60,000 or more the salary of the mayor is \$3,500, of councilman \$3,000.—*Laws of Iowa*, 1909, p. 58.

¹⁹ The exact wording of the clause conferring powers and duties upon the council is as follows:—

“The council shall have and possess, and the council and its members shall exercise all executive, legislative and judicial powers and duties now had, possessed and exercised by the mayor, city council, solicitor, assessor, treasurer, auditor, city engineer and other executive and administrative officers in cities of the first and second class, and in cities under special charter, and shall also possess and exercise all executive, legislative and judicial powers and duties now had and exercised by the board of public works, park commissioners, the board of police and fire commissioners, board of water works trustees, and board of library trustees in all cities wherein a board of public works, park commissioners, board of police and fire commissioners, board of water works trustees, and board of library trustees now exist or may be hereafter created.”—*Laws of Iowa*, 1909, p. 57.

²⁰ “In cities having a population of less than twenty-five thousand such only of the above named officers shall be appointed as may, in the judgment of the mayor and councilmen be necessary for the proper and efficient transaction of the affairs of the city.”—*Laws of Iowa*, 1909, p. 57.

The power of removal in certain cases is of course conditioned by civil service regulations.

²¹ The Des Moines Plan conforms to the short ballot principle of “conspicuous responsibility” since under its provisions only those offices are elective “which are important enough to attract (and deserve) public examination”, and very few offices are filled by election at one time.—See defini-

tion of "Short Ballot Charter" in Beard's *Digest of Short Ballot Charters*, p. 10201.

²² The double election was made a feature of the Des Moines Plan upon the suggestion of Governor A. B. Cummins.—Hamilton's *The Dethronement of the City Boss*, pp. 158, 159.

²³ *Laws of Iowa*, 1909, pp. 54, 55, 56.

²⁴ *Laws of Iowa*, 1907, pp. 44, 46; *Laws of Iowa*, 1911, p. 39.

²⁵ The number must equal at least twenty-five per cent of all the votes cast for mayor at the last preceding city election.—*Laws of Iowa*, 1907, p. 47.

²⁶ The number in this case must equal at least ten per cent of all the votes cast for mayor at the last preceding city election.—*Laws of Iowa*, 1909, p. 59.

²⁷ It would doubtless be fair to presume that such a vacancy could be filled by the city council.

²⁸ *Laws of Iowa*, 1909, p. 57.

²⁹ *Laws of Iowa*, 1909, p. 57.

³⁰ *Laws of Iowa*, 1907, p. 43.

³¹ *Laws of Iowa*, 1907, p. 42; *Laws of Iowa*, 1909, p. 57.

³² The prohibition of free transportation does not apply to policemen or firemen in uniform.—*Laws of Iowa*, 1907, p. 44.

³³ *Laws of Iowa*, 1907, pp. 43, 44.

³⁴ *Laws of Iowa*, 1907, p. 44.

³⁵ The exeception is worded as follows: "Except when otherwise required by the general laws of the state or by the provisions of this act, execept an ordinance for the immediate preservation of the public peace, health or safety, which contains a statement of its urgency and is passed by a two-thirds vote of the council".—*Laws of Iowa*, 1907, p. 48.

³⁶ *Laws of Iowa*, 1907, p. 48.

³⁷ The number of petitioners must equal twenty-five per cent of all votes cast for mayor at the last preceding city election.— *Laws of Iowa*, 1907, p. 47.

³⁸ *Laws of Iowa*, 1907, p. 48.

³⁹ *Laws of Iowa*, 1907, p. 46.

⁴⁰ *Laws of Iowa*, 1909, p. 58.

⁴¹ Originally the chief of the fire department was appointed by the council and did not belong to the civil service. But in 1911 the General Assembly empowered the civil service commission to appoint the chief of the fire department.— *Laws of Iowa*, 1911, p. 39.

⁴² Ample provisions are made for appeals and hearings in cases of suspension or removal from office.— *Laws of Iowa*, 1911, pp. 38, 39.

⁴³ An account of the campaign for adoption may be found in Chapter XIV of Hamilton's *The Dethronement of the City Boss*.

⁴⁴ *Davenport Times*, January 13, 1908.

⁴⁵ Judge Howe's opinion is given in full as Appendix E in Hamilton's *The Dethronement of the City Boss*.

⁴⁶ See 137 Iowa 452.

⁴⁷ From the preface to William Penn's *Frame of Government for Pennsylvania*, 1682.— Poore's *Charters and Constitutions*, Vol. II, p. 1519.

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